Docket No.: FAN-0027/US
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Franklin D. Raines

Application No.: 09/998,332 | Confirmation No.: 5587

Filed: December 3, 2001 | Art Unit: 3696

For: REPURCHASE AGREEMENT LENDING FACILITY | Examiner: C. B. Graham

## APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on September 22, 2008, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205.2:

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| TRANSMITTAL OF APPEAL BRIEF | Docket No. FAN-0027/US |
|---|---|

In re Application of: Franklin D. Raines

| Application No. | Filing Date | Examiner | Group Art Unit |
|---|---|---|---|
| 09/998,332-Conf. #5587 | December 3, 2001 | C. B. Graham | 3696 |

Invention: REPURCHASE AGREEMENT LENDING FACILITY

**TO THE COMMISSIONER OF PATENTS:**

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed: September 12, 2008 .

The fee for filing this Appeal Brief is $ 540.00 .

[X] Large Entity [ ] Small Entity

[X] A petition for extension of time is also enclosed.

The fee for the extension of time is $ 130.00 .

[ ] A check in the amount of _____ is enclosed.

[X] Charge the amount of the fee to Deposit Account No. 18-0013 .
This sheet is submitted in duplicate.

[ ] Payment by credit card. Form PTO-2038 is attached.

[X] The Director is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 18-0013 .
This sheet is submitted in duplicate.

Dated: November 26, 2008

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## I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Fannie Mae of Washington, D.C. An assignment of all rights in the present application to Fannie Mae was executed by the inventors and recorded by the United States Patent and Trademark Office at Reel 012627/0544.

## II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

## III. STATUS OF CLAIMS

### A. Total Number of Claims in Application

There are 28 claims pending in application.

### B. Current Status of Claims

1. Claims canceled: none
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 1-28
4. Claims allowed: none
5. Claims rejected: all

### C. Claims on Appeal

The claims on appeal are claims 1-28

## IV. STATUS OF AMENDMENTS

Appellant filed a Request for Reconsideration on June 13, 2008 in response to the Final Office Action of April 16, 2008. The Examiner responded to the Request for Reconsideration with an Advisory Action mailed September 22, 2008, indicating the proposed amendment would not be entered (though there were no amendments) and that the Request for Reconsideration was not persuasive.

Accordingly, the claims enclosed herein as Appendix A, incorporate the amendments indicated in the amendment filed on December 6, 2007.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

The following description is for illustrative purposes and is not intended to limit the scope of the invention.

As per claim 1, the present invention relates to a method for enhancing the liquidity of a tradable security (Spec. at ¶[0052], [0060]), comprising the steps of holding an issue of the security; retaining a first portion of the holding (Fig. 2 "Reserve First Portion of Issue", Spec at [0060]); determining when the security is being squeezed; and offering to the market a second portion of the holding during the squeeze (Fig. 2 "Auction Second...", Spec at [0060]) other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security. As per claim 9, the method may also include the step of repoing the second portion of the holding (Figs. 105, "Repo Securities Lent," Spec at [0053], [0065], [0076]).

As per claim 2, the step of offering to the market a second portion of the holding further comprises the step of auctioning the second portion of the holding to a group of market participants according to a pre-determined bid range (Fig. 2, "Set Bid Range", "Auction Second Portion of Issue *within Bid Range*," Spec at [0060]).

As per claim 3, the bid range may comprise a minimum bid set at a rate that is greater than or equal to about the rate for general collateral less about 175 basis points and not less than about 1% (Spec at [0035], [0068]). As per claim 4, the method may include a step of determining the results of the auction according to a pre-determined format (Spec at [0068] "Dutch auction format,

but any other format acceptable...", [0080] "the auction format could be multi-priced, Dutch auction, reverse auction, or any other suitable auction...").

As per claim 5, the first portion may vary between a range of about 25% to about 50% of the issue (Spec at [0054], "...may vary between 25 and 50%..."), and as per claim 6, the second portion may vary between a range of about 10% to about 25% of the issue (Spec at [0054], "...may vary between 10 and 25%..."). Alternatively, as per claim 7, the second portion comprises all of the first portion (Spec at [0054], first and second portions may be 25%). Alternatively, as per claim 8, the second portion may be less than the first portion (Spec at [0068], "...first portion is preferably 25% and the second portion preferably 15%").

As per claim 10, the present invention may also relate to a method for enhancing the liquidity of a tradable security (Spec at [0054],[0063]), comprising the steps of: committing to provide a repo facility for the security (Spec at [0063]); issuing the security (Spec at [0063]); retaining a first portion of the issuance of the security (Spec at [0063]); establishing criteria for lending a second portion of the retained first portion of the issuance(Spec at [0063]); lending the second portion of the issuance of the security pursuant to the criteria other than for the purpose of effecting non-borrowed reserves(Spec at [0063]); and repoing the second portion of the issuance pursuant to the criteria (Spec at [0063]).

As per claim 18, the present invention may also relate to a system for repoing a security in a market, comprising: commitment to the market to repo the security (Spec at [0063]); issuance means for issuing the security (Spec at [0063]); retention means for retaining a portion of the security (Spec at [0063]); lending means for lending a second portion of the retained securities when the market for the security is special other than for the purpose of effecting non-borrowed

reserves (Spec at [0063]); and repo means for repoing the securities to enhance the liquidity of the security (Spec at [0063]).

As per claim 19, the present invention may also relate to a method for enhancing the liquidity of a tradable security by an entity selected from the group *consisting of*: a private issuer, a non-treasury entity, a non-governmental entity, and a non-agency entity (Spec at [0031], [0061]), said method comprising the steps of: holding an issue of a security (Spec at [0063]); retaining a first portion of the holding (Spec at [0063]); determining when the security is being squeezed (Spec at [0063]); and offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security (Spec at [0063]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether the Examiner erred in rejecting claims 1, 10, and 18-19 under 35 U.S.C. § 101 based upon the allegation that the claimed invention is directed to non-statutory subject matter, particularly an algorithm.

B. Whether the Examiner erred in rejecting claims 1, 10, and 18-19 under 35 U.S.C. § 112 for failing to point out and particularly claim the subject matter which appellant regards as the invention.

C. Whether the Examiner erred in rejecting claims 1-27 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,101,353 to Lupien et al. ("Lupien") in view of the 4th Edition (1995) of the Dictionary of Finance ("DoF").

VII. ARGUMENT

**A. The Examiner erroneously rejected claims 1, 10, and 18-19 under 35 U.S.C. § 101 based upon the allegation that the claimed invention is directed to non-statutory subject matter, particularly an algorithm.**

Claims 1, 10, and 18-19 have been rejected under 35 U.S.C. § 101 based upon the allegation that the claimed invention is directed to non-statutory subject matter, particularly an algorithm.

Appellant respectfully submits that the requirements set forth in the Action are taken out of context, and are actually at odds with what is actually held in *In re Bilski,* No. 2007-1130, 2008 U.S. App. LEXIS 22479, at *47 (Fed. Cir. Oct. 30, 2008) and *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 47 USPQ2d 1596 (Fed. Cir. 1998) decisions. In that regard, Appellant submits that the definition of statutory subject matter as set forth by the Examiner is decidedly narrower than what is required by the statute as interpreted by the Court of Appeals for the Federal Circuit.

*In re Bilski,* No. 2007-1130, 2008 U.S. App. LEXIS 22479, at *47 (Fed. Cir. Oct. 30, 2008), reiterates the machine-or-transformation test which recognizes that a claim constitutes statutory subject matter if the claim recites a machine or causes a transformation to occur. *Id* at *45. *In re Bilski* specifically highlights that "the proper inquiry under § 101 is not whether the process recites sufficient 'physical steps' but rather whether the claim meets the machine-or-transformation test." *Id* at *45.

The *Bilski* court affirmed the *State Street* decision, explaining that the business method claim exception was unlawful and that business method patents are patentable subject to meeting the patentability requirements of any other type of claim. *Bilski* at *42.

Citing to *Comisky*, the *Bilski* court explained that "[o]ur statement in *Comiskey* that 'a claim reciting an algorithm or abstract idea can state statutory subject matter only if, as employed in the process, it is embodied in, operates on, transforms, or otherwise involves another class of statutory subject matter, i.e., a machine, manufacture, or composition of matter,' 499 F.3d at 1376, was simply a summarization of the Supreme Court's machine-or-transformation test and should not be understood as altering that test." *Id* at *44 (footnote 25).

However, to define the meaning of transformation, one clear definition adopted by the U.S. Federal Circuit, clearly recites that:

> the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation... *State Street*, 47 USPQ2d at 1601.

With respect to *Bilski*, first, any practical application of monitoring securities and security transactions requires the use of machines.

Secondly, the claim recites "enhance[ing] the liquidity of the market for the security," a step that effects the market conditions, i.e., causing a transformation in the market. Furthermore, the claims discuss dividing the issue of security into separate portions and selling the portions under different conditions, further illustrating a change to the security block. The disclosed steps of the method, as well as the results of "enhancing the liquidity of a tradable security" recited by the claims, are clearly instances of a practical application, and a transformation. Holding, retaining, determining, and offering a security, clearly lead to a practical application and a transformation market conditions and information.

Furthermore, the exchanging of securities inherently requires the modification or transfer of the security instrument, or the presence of a computerized transaction. As such, it creates a transformation in the nature of the security and the record of ownership, i.e., data.

Accordingly, withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

**B. The Examiner erroneously rejected claims 1, 10, and 18-19 under 35 U.S.C. § 112 for failing to point out and particularly claim the subject matter which appellant regards as the invention.**

Claims 1, 10, and 18-19 have been rejected under 35 U.S.C. § 112 for failing to point out and particularly claim the subject matter which appellant regards as the invention. In particular, the Office action asserts that:

> "this language fails to distinctly claim appellant's invention because the scope of the claim is unclear, 'what happens if the security is not squeezed'?----. Moreover the specification fails to clarify the meaning of the limitation."

First, claim 1 recites "offering to the market a second portion of the holding during the squeezed other than for the purpose of effecting non-borrowing reserves..." As such, the fifth line of claim 1 only applies in cases where the security is being squeezed. While the nature of the fifth line renders the last step conditional, it does not render the step unclear. Furthermore, as a portion of claim 1, this step is clearly necessary for infringement and, therefore, for anticipation.

Support for such method claims are commonly found, for example, in *Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363, 1374–75 (Fed. Cir. 2003). In *Altiris, Inc.* the Court faced a claimed construction matter also including conditional steps and employed the conditional nature of the claims to set an implied order for the various steps. The court did not find any 35 U.S.C. § 112 issues with respect to the claim construction. Similar conditions are also common in methods reciting construction, where the steps require certain conditions to occur in the production process for a chemical, such as measuring or performing a step at a given temperature.

The assertion in the Office Action that the "language fails to distinctly claim appellant's invention because the scope of the claim is unclear," confuses the scope of the claim with an issue of clarity. Clearly, other actions can be taken if the security is not being squeezed, however, those conditions are not within the scope of claims 1, 10, 18, and 19. That is, the claim only applies to situations occurring "during the squeeze," where a prior reference discloses performing the offering step when the security is squeezed.

Second, the Office Action asserts that the definition of what it means for a security to be "squeezed" in insufficient. The MPEP sets forth that:

> In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a ***whole to determine whether the claim apprises one of ordinary skill in the art of its scope*** and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the

> patent. See, *e.g., Solomon v. Kimberly-Clark Corp.,* 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000)...
>
> Accordingly, a claim term that is not used or defined in the specification is not indefinite if the meaning of the claim term is discernible. *Bancorp Services, L.L.C. v. Hartford Life Ins. Co.,* 359 F.3d 1367, 1372, 69 USPQ2d 1996, 1999-2000 (Fed. Cir. 2004)...
>
> If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.,* 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993). However, if the language used by appellant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the appellant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112, second paragraph, rather, the examiner should suggest improved language to the appellant.

In the present application, the Office Action asserts that the term "squeeze" fails to particularly point out the subject matter of the claims; however, the Office Action also cites to a financial dictionary which defines the term "squeeze" in both the financial and investment markets. Furthermore, paragraph [007] of U.S. Publication 2003/0074300 (publication of the present application) defines the term "squeeze":

> The Repo Market can provide added liquidity in the event that a market for a particular security is squeezed. For example, brokers and dealers in a particular security may attempt to capture a large portion of the market in that security on a particular date. In that event, the security may not be available at or near the market rate at which it or comparable securities are typically traded. This is referred to as going "special." **When a special occurs, the availability of the security in the market is referred to as being "squeezed."** This squeeze impairs the liquidity of the market for the debt. (See U.S. Publication 2003/0074300 of the present application)

Given that the term "squeeze" is defined similarly both in the specification as filed and in the general investment field, one of ordinary skill would be able to readily understand the metes and bounds of the claims.

Finally, the fact that the Examiner has rejected the claims 1-28 by citing to "the 4th Edition (1995) of the Dictionary of Finance" clearly illustrates that the term has meaning within the arts of Finance and Securities.

Accordingly, withdrawal of this rejection is respectfully requested.

**C. The Examiner erroneously rejected claims 1-27 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,101,353 to Lupien et al. ("Lupien") in view of the 4th Edition (1995) of the Dictionary of Finance ("DoF").**

Claims 1-27 have been rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,101,353 to Lupien et al. ("Lupien") in view of the 4th Edition (1995) of the Dictionary of Finance ("DoF").

Lupien discloses an automated system for managing large investment portfolios containing various cash and securities in the real-time environment (see abstract). Traditionally large portfolios had to be carefully managed due to the large market impact introduced by the purchase of large quantities of securities or the time consumed with the management of a large number of small quantities of securities. Lupien discloses a system that uses data processing equipment to place by and sell orders on securities using automated brokers to execute trades directly between users of the system and external markets (see abstracts).

DoF simply provides definitions from the term "squeeze" in reference to Financial and investment markets.

Claim 1 recites: *A method for enhancing the liquidity of a tradable security, comprising the steps of:*

*holding an issue of the security;*

*retaining a first portion of the holding;*

*determining when the security is being squeezed; and*

*offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security.*

With respect to claim 1, neither Lupien nor DoF teach or suggest "*retaining a first portion of the holding; determining when the security is being squeezed; and offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security.*"

Lupien only discloses a system for trading a large number of stocks automatically. In essence, the Lupien system allows a user to create a virtual trader that will continue to trade securities in a portfolio and manage all or part of the portfolio based on the predefined criteria. While the disclosed system may increase market liquidity by increasing the number of trades in securities, Lupien does not disclose any particular security trading strategy. As such, Lupien does not disclose a trading strategy employing squeeze securities or the buying or selling of only a portion of a given security holding. Instead, Lupien only offers an open-ended framework for automatically trading securities.

The Office Action rejects claim one by citing to column 2, lines 60-67 and column 3, lines 1-67. However, these citations only disclose the benefit of having automatic securities trades in light of the general cost of managing large portfolios containing numerous securities based on predetermined risk/return ratios.

The Office Action admits that Lupien fails to teach or suggest "determining when the security is being squeezed," and cites to DoF as the basis for including the concept of a security squeeze for rejecting claim 1. However, the Office Action provides no basis or strategy in either Lupien or DoF for employing a security squeeze to yield a profit or provide liquidity. Furthermore, the Office Action provides no basis or strategy which divides and manages the holdings of a security in two separate portions.

The fact that a "squeeze" is a defined condition does not logically suggest a given trading strategy to promote liquidity. The presence of a defined condition only illustrates that this condition is known to exist. It does not suggest a given response.

Therefore, even a combination of Lupien and DoF would fail to teach or suggest "*retaining a first portion of the holding; determining when the security is being squeezed; and offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security.*"

For the reasons stated above, claims 10, 18 and 19 also overcome the Lupien and DoF (although claims 1, 10, 18 and 19 should be interpreted solely based upon the limitations set forth therein).

> Claim 2 recites: *The method according to claim 1, wherein the step of offering to the market a second portion of the holding further comprises the step of auctioning the second portion of the holding to a group of market participants according to a pre-determined bid range.*

The Office Action cites to the abstract, column 2 (lines 60-67), column 3 (lines 1-67), column 15 (lines 38-67), and column 16 (lines 1-35). However, none of these columns pertain to the buying and selling of securities in portions. Furthermore, none of these columns recite selling at a predetermined bid range. As set forth above, columns 2 and 3 discuss issues pertaining to the transactions involving large portfolios, while columns 15 and 16 simply include the first claim in Lupien directed to an automatic trading platform.

By contrast, claim 2 is directed to the process of offering the second portion of the market holdings at a predefined bid range, elements neither taught nor suggested by Lupien. Furthermore, the cited portion of the DoF fails to disclose these elements.

> Claim 3 recites, in part: *wherein the bid range comprises a minimum bid set at a rate that is greater than or equal to about the rate for general collateral less about 175 basis points and not less than about 1%.*

Claim 5 recites, in part: *wherein the first portion varies between a range of about 25% to about 50% of the issue.*

Claim 6 recites, in part: *wherein the second portion varies between a range of about 10% to about 25% of the issue.*

Claim 7 recites, in part: *wherein the second portion comprises all of the first portion.*

Claim 8 recites, in part: *wherein the second portion comprises less than all of the first portion.*

All of claims 3, and 5-8 impart a range limitation onto the independent claim.

The Office Action cites to the abstract, column 2 (lines 60-67), column 3 (lines 1-67), column 15 (lines 38-67), and column 16 (lines 1-35). However, none of these columns nor any portion of Lupien or the DoF teach or suggest *a minimum bid set,* the sizes of the first and second portions, the range of the issue, or any of the limitations set forth in claims 3, and 5-9.

With respect to claims 3, 5, 6, 7 and 8, Lupien does not teach or suggest "*a minimum basis,*" "*the first portion varies between a range of about 25% to about 50% of the issue,*" "*the second portion varies between a range of about 10% to about 25% of the issue,*" "*the second portion comprises all of the first portion,*" or that "*the second portion comprises less than all of the first portion.*"

The Office Action provides a blanket rejection, citing to the abstract, column 2 (lines 60-67), column 3 (lines 1-67), column 15 (lines 38-67), and column 16 (lines 1-35).

However, as set forth before, neither Lupien nor DoF provide a reasonable argument or strategy where the security holdings are sold in various portions in response to a squeeze.

Furthermore, Lupien does not offer a basis for setting any of the disclosed values and ranges. This is simply declared obvious in the Office Action without any further explanation.

Absent some motivation or suggestion for declaring these values and ranges obvious, the Office Action has not created a *prima facie* case against patentability. The Examiner has only paraphrased appellant's claims and cited to general swaths of the reference. The Examiner has not identified, nor do any of the references teach or suggest the disclosed ranges.

Furthermore, while Appellant submits that neither Lupien nor DoF teach or suggest the features recited in these claims for at least the reasons noted above, Appellant respectfully requests that the Examiner clearly identify where the recited features, values, and ranges are found, should the Examiner continue to rely upon these references.

Claim 9 recites: *The method according to claim 1, further comprising the step of repoing the second portion of the holding.*

However, neither Lupien nor DoF has any association with the concept of repoing securities. That is, the very concept of repoing securities is completely absent from the disclosure of Lupien, as Lupien only discloses the buying and selling of securities, not the repoing of securities.

For the reasons set forth above, neither Lupien nor DoF teach or suggest the various features of claims 1-9. For similar reasons to those set forth above, neither Lupien nor DoF overcome claims 10-27.

Accordingly, withdrawal of the rejection of claims 1-28 is respectfully requested.

## VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A include the amendments filed by Appellant on June 13, 2008, and do not include the amendment(s) filed on June 13, 2008.

## CONCLUSION

Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. FAN-0027/US from which the undersigned is authorized to draw.

Dated: November 26, 2008

Respectfully submitted,

By_____

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Correspondence Customer Number: 23353
Attorney for Appellant

## APPENDIX A

**Claims Involved in the Appeal of Application Serial No.** 09/998,332

1. A method for enhancing the liquidity of a tradable security, comprising the steps of:

holding an issue of the security;

retaining a first portion of the holding;

determining when the security is being squeezed; and

offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security.

2. The method according to claim 1, wherein the step of offering to the market a second portion of the holding further comprises the step of auctioning the second portion of the holding to a group of market participants according to a pre-determined bid range.

3. The method according to claim 2, wherein the bid range comprises a minimum bid set at a rate that is greater than or equal to about the rate for general collateral less about 175 basis points and not less than about 1%.

4. The method according to claim 2, further comprising the step of determining the results of the auction according to a pre-determined format.

5. The method according to claim 1, wherein the first portion varies between a range of about 25% to about 50% of the issue.

6. The method according to claim 1, wherein the second portion varies between a range of about 10% to about 25% of the issue.

7. The method according to claim 1, wherein the second portion comprises all of the first portion.

8. The method according to claim 1, wherein the second portion comprises less than all of the first portion.

9. The method according to claim 1, further comprising the step of repoing the second portion of the holding.

10. A method for enhancing the liquidity of a tradable security, comprising the steps of:

committing to provide a repo facility for the security;

issuing the security;

retaining a first portion of the issuance of the security;

establishing criteria for lending a second portion of the retained first portion of the issuance;

lending the second portion of the issuance of the security pursuant to the criteria other than for the purpose of effecting non-borrowed reserves; repoing the second portion of the issuance pursuant to the criteria.

11. The method according to claim 10 wherein the step of lending the second portion of the issuance further comprises the step of auctioning the second portion of the issuance to a group of market participants, and the established criteria comprises a pre-determined bid range.

12. The method according to claim 11, wherein the bid range comprises a minimum bid set at a rate that is greater than or equal to about the rate for general collateral less about 175 basis points and not less than about 1%.

13. The method according the claim 11, further comprising the step of determining the results of the auction according to a pre-determined format.

14. The method according to claim 10, wherein the first portion varies between the range of about 25% to about 50% of the issue.

15. The method according to claim 10, wherein the second portion varies between the range of about 10% to about 25% of the issue.

16. The method according to claim 10, wherein the second portion comprises all of the first portion.

17. The method according to claim 10, wherein the second portion comprises less than all of the first portion.

18. A system for repoing a security in a market, comprising:

commitment to the market to repo the security;

issuance means for issuing the security;

retention means for retaining a portion of the security;

lending means for lending a second portion of the retained securities when the market for the security is special other than for the purpose of effecting non-borrowed reserves; and

repo means for repoing the securities to enhance the liquidity of the security.

19. A method for enhancing the liquidity of a tradable security by an entity selected from the group consisting of:

a private issuer, a non-treasury entity, a non-governmental entity, and a non-agency entity,

said method comprising the steps of:

holding an issue of a security;

retaining a first portion of the holding;

determining when the security is being squeezed; and

offering to the market a second portion of the holding during the squeeze other than for the purpose of effecting non-borrowed reserves and to enhance the liquidity of the market for the security.

20. The method according to claim 19, wherein the step of offering to the market a second portion of the holding further comprises the step of auctioning the second portion of the holding to a group

of market participants according to a pre-determined bid range.

21. The method according to claim 20, wherein the bid range comprises a minimum bid set at a rate that is greater than or equal to about the rate for general collateral less about 175 basis points and not less than about 1%.

22. The method according to claim 20, further comprising the step of determining the results of the auction according to a pre-determined format.

23. The method according to claim 19, wherein the first portion varies between a range of about 25% to about 50% of the issue.

24. The method according to claim 19, wherein the second portion varies between a range of about 10% to about 25% of the issue.

25. The method according to claim 19, wherein the second portion comprises all of the first portion.

26. The method according to claim 19, wherein the second portion comprises less than all of the first portion.

27. The method according to claim 19, further comprising the step of repoing the second portion of the holding.

28. A method for enhancing the liquidity of a tradable security stored on a computer readable medium for causing a computer to perform the steps comprising:

holding an issue of the security;

retaining a first portion of the holding;

determining that the security is being squeezed; and

offering to the market a second portion of the holding during the squeeze to enhance the liquidity of the market for the security.

## APPENDIX B

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

## APPENDIX C

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.